

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Janine Jasso P.O. Box 370161 El Paso, TX 79937 PH: 213-247-6030 Email: j9_jasso@yahoo.com <input checked="" type="checkbox"/> Individual appearing without attorney <input type="checkbox"/> Attorney for	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION	
In re: Jamie Lynn Gallian Debtor(s). Janine Jasso Plaintiff(s). vs. Jamie Lynn Gallian, an individual; J-PAD, LLC, a California Limited Liability Company; J-SANDCASTLE CO LLC, a California Limited Liability Company; and DOES 1 through 100, inclusive, Defendant.	CASE NO.: 8:21-bk-11710-ES CHAPTER: 7 ADVERSARY NO.: 8:21-ap-01096-SC NOTICE OF LODGMENT OF ORDER OR JUDGMENT IN ADVERSARY PROCEEDING RE: (title of motion¹): <u>Proposed Order for Partial Summ. Jgmt on Plaintiff's 1st Cause Action Denying Debtor Discharge of Criminal Rest Jgmt under 11 USC 523(a)(7) [DK 47]</u>

PLEASE TAKE NOTE that the order or judgment titled Proposed Order For Partial Summ. Jdgmt on Plaintiff's First Cause of Action Denying Discharge of The Criminal Rest. Jgmt under 11 U.S.C. 523(a)(7) was lodged on (date) 12/02/2022 and is attached. This order relates to the motion which is docket number 47.

¹ Please abbreviate if title cannot fit into text field.

1 Janine Jasso
2 P.O. Box 370161
3 El Paso, TX 79937
4 E-Mail: j9_jasso@yahoo.com
5 Plaintiff, IN PRO PER
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11 **UNITED STATES BANKRUPTCY COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION**
13

14 In Re: JAMIE LYNN GALLIAN

CASE NO. 8:21-bk-11710-SC

Chapter 7

Adversary No. 8:21-ap-01096-SC

15 JANINE JASSO, an individual,
16 Plaintiff,

17 v.

18 JAMIE LYNN GALLIAN, an individual; J-
19 PAD, LLC, a California Limited Liability
20 Company, J-Sandcastle Co LLC, a
21 California Limited Liability Company, and
22 DOES 1 through 100, inclusive,

23 Defendants.

**PROPOSED ORDER FOR PARTIAL
SUMMARY JUDGMENT ON
PLAINTIFF'S FIRST CAUSE OF ACTION
DENYING DEBTOR DISCHARGE OF
THE CRIMINAL RESTITUTION
JUDGMENT UNDER 11 U.S.C. §523(a)(7)
[Docket 47]**

Hearing: December 13, 2022
Time: 1:30 p.m.
Courtroom: 5C-Virtual.

24 The motion of Plaintiff-Creditor Janine Jasso's ("Plaintiff" or "Creditor" or "Movant") for
25 partial summary judgment came on regular hearing before this Court on Dember 13, 2022 at
26 1:30 p.m. Plaintiff, Janine Jasso appeared in pro se. Defendant-Debtor, Jamie Lynn Gallian,
27 appeared in pro se. After considering the moving, opposition, and reply papers, arguments and
28 all other matters presented to the Court, IT IS HEREBY ORDERED THAT the motion is

1 granted.

2 The Court finds that there are no genuine issues of material fact with reference to the
3 evidence submitted by the Parties. Specifically, the Court finds that:

4 1. Criminal proceedings were initiated against the Debtor in the Orange County
5 Superior Court, Criminal Division, bearing case number 18WM05278 (the "Case No.
6 18WM05278").

7
8 2. On November 13, 2019, Debtor was convicted of two counts of contempt of court
9 under Penal Code section 166(a)(4). On or about August 18, 2021, Defendant-Debtor's
10 convictions were affirmed on appeal.

11
12 3. On December 12, 2019, the state criminal court suspended sentence and ordered 3
13 years of probation. Among other orders, including no-contact orders with her victims,
14 Defendant-Debtor was also ordered to make restitution to the victims, Plaintiff-Movant and
15 her minor daughter pursuant to California Penal Code section 1202.4(f) in the amount of
16 \$9338.25, plus 10 percent interest from the date of the loss. On or about April 18, 2022, the
17 state's criminal restitution order was affirmed on appeal by the state criminal appellate court.

18
19 4. On or about March 9, 2021, the state criminal court filed a state criminal restitution
20 order called an Order for Victim Restitution in Case No. 18WM05278.

21 5. On or about May 3, 2021, the state criminal court notified the Defendant-Debtor by
22 mail to pay the criminal restitution order. The Defendant-Debtor has made no payment on the
23 debt to date.

24 6. On or about May 26, 2021, the state criminal court filed an Abstract of Judgment
25 which was recorded in the OC Recorder's office.

26
27 7. On or about July 9, 2021, the Defendant-Debtor filed for relief under chapter 7 of the
28 Bankruptcy Code, 11 U.S.C. §§ 101, et. seq.

1 8. In her original petition, Case No. 8:21-bk-11710-SC, Schedule E/F, Item 4.17 [Dk 1],
2 the Debtor scheduled the People of the State of California criminal restitution order.

3 9. Plaintiff plead the criminal restitution debt as the First Cause of Action of the First
4 Amended Complaint [Dk 6], the operative pleading, as nondischargeable under 11 U.S.C.
5 523(a)(7) pursuant to *Kelly v. Robinson*, 479 U.S. 36, 107 S.Ct. 353, 93 L.Ed.2d 216 (1986).
6

7 The Court finds the following conclusions of law applicable to this order. Specifically,
8 the Court finds that:

9 10. This Court has jurisdiction.
10

11 11. Plaintiff-Movant has met her burden of proof by a preponderance of the evidence
12 that there is no genuine of material fact.

13 12. The U.S. Supreme Court decision in *Kelly v. Robinson*, 479 U.S. 36, 107 S.Ct.
14 353, 93 L.Ed.2d 216 (1986) is binding authority on this Court.

15 13. The U.S. Supreme Court holding in *Kelly v. Robinson*, 479 U.S. 36, 50, 107 S.Ct.
16 353, 93 L.Ed.2d 216 (1986) broadly held that “§ 523(a)(7) preserves from discharge any
17 condition a state criminal court imposes as part of a criminal sentence.”
18

19 14. The long-standing judicial exception to discharge is based on a “*deep conviction*
20 *that federal bankruptcy courts should not invalidate the results of state criminal proceedings.*
21 The right to formulate and enforce penal sanctions is an important aspect of the sovereignty
22 retained by the States. This Court has emphasized repeatedly “the fundamental policy against
23 federal interference with state criminal prosecutions.” *Kelly v. Robinson*, 479 U.S. 36, 47, 107
24 S.Ct. 353, 93 L.Ed.2d 216 (1986), citing *Younger v. Harris*, 401 U.S. 37, 46, 91 S. Ct. 746, 27
25 L.Ed.2d 669 (1971).
26

27 15. The Case No. 18WM05278 state criminal restitution order is a debt that is squarely
28 within *Kelly v. Robinson*, 479 U.S. 36, 107 S.Ct. 353, 93 L.Ed.2d 216 (1986).

1 16. The Court finds the Ninth circuit cases of *In re Steiger*, 159 B.R. 907 (B.A.P. 9th
2 Cir. 1993), *In re Warfel*, 268 B.R. 205 (B.A.P. 9th Cir. 2001, *In re Reif*, 363 B.R. 107 (Bankr.
3 D Arizona 2002), *In re Silverman*, 616 F.3d 1001 (9th Cir. 2010), *In re Armstrong*, 677
4 F.App'x 434, (unpub'd 9th Cir. 2017) and *O'Hara v. UST- US. Tr. (In re O'Hara)*, 835
5 F'Appx. 253 (9th Cir. 2020) are persuasive authority.
6

7 17. Plaintiff-Movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a).

8 18. The *People v. Gallian*, Case No. 18WM05278 state criminal court restitution order
9 is not discharged pursuant to 11 U.S.C. §523(a)(7).
10

11 IT IS SO ORDERED.

12 ###

13
14 Date: December , 2022

15 _____
16 Scott C. Clarkson
17 United States Bankruptcy Judge
18
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28

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
7101 N. Mesa, Ste 355
El Paso, TX 79912

A true and correct copy of the foregoing document entitled (*specify*): **Proposed Order Granting Motion for Partial Summary Judgment on Plaintiff's First Cause of Action Denying Debtor Discharge of the Criminal Restitution Judgment Under 11 U.S.C. §523(a)(7) and Judgment** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 12/01/2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See NEF for confirmation of electronic transmission to the U.S. trustee, any trustee in this case, and to any attorneys who received service by NEF.

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On (date) 12/01/22, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR AND DEFENDANT
JAMIE LYNN GALLIAN
16222 MONTEREY LANE, SPC 376
HUNTINGTON BEACH, CA 92649

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) 12/1/22, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Honorable Scott Clarkson, USBC, 411 West Fourth Street, Santa Ana, CA 92701

Courtesy Copy via email: Aaron De Leest, Esq., adeleest@danninggill.com

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12-1-2022
Date

David Jasso
Printed Name


Signature

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
7101 N. Mesa, Ste 355
El Paso, TX 79912

A true and correct copy of the foregoing document entitled: **NOTICE OF LODGMENT OF ORDER OR JUDGMENT IN ADVERSARY PROCEEDING** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 12/02/2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

See NEF for confirmation of electronic transmission to the U.S. trustee, any trustee in this case, and to any attorneys who received service by NEF.

☐ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL:** On (date) 12/02/2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR AND DEFENDANT

JAMIE LYNN GALLIAN

16222 MONTEREY LANE, SPC 376
HUNTINGTON BEACH, CA 92649

☐ Service information continued on attached page

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Document Delivery to Court Suspended General Order 21-05

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/02/2022
Date

David Jasso
Printed Name


Signature